

Message Text

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E.O. 11652: N/A

TAGS: SCUL CH

SUBJECT: CHINESE ARCHEOLOGICAL EXHIBITION - AGREEMENTS

REF: A. PEKING 1976 B. STATE 268815

1. USLO REGRETS THAT, CONTRARY TO STATEMENT REF A, DURING LAST MINUTE PREPARATIONS FOR SECRETARY'S VISIT WHICH INVOLVED ALL ELEMENTS OF THE MISSION, MFA NOTE CONCERNING INTERPRETATION OF ARTICLE 5 OF THE EXCHANGE OF LETTERS INADVERTENTLY WAS NOT SENT TO DEPARTMENT.

2. IN COURSE OF PREPARING FULL TRANSLATION OF MFA NOTE WE HAVE ALSO DISCOVERED THAT CHINESE POSITION IS LESS RIGID THAN IT ORIGINALLY APPEARED. WHILE FINAL SENTENCE IS SUBSTANTIALLY AS REPORTED REF A, PREVIOUS SENTENCE MAKES IT QUITE CLEAR THAT CHINESE ARE PREPARED TO ACCEPT PARTIAL COMPENSATION BASED ON DEGREE OF DAMAGE TO ARTICLE, BUT ARE STILL HUNG UP ON WHAT IS ESSENTIALLY A LINGUISTIC PROBLEM CONCERNING PARTIAL LOSS. AS WE HAVE MENTIONED EARLIER, IN CHINESE "LOSS" MEAN "TO BE LOST", I.E. GONE FOREVER, AND THEREFORE CANNOT BE PARTIAL. THERE FOLLOWS FULL TRANSLATION OF MFA NOTE. WE WILL SEND ORIGINAL OF NOTE IN NEXT POUCH.

3. BEGIN QUOTE. THE INFORMATION DEPARTMENT OF THE MINISTRY OF FOREIGN AFFAIRS OF THE PEOPLE'S REPUBLIC OF CHINA PRESENTS ITS COMPLIMENTS TO THE UNITED STATES LIAISON OFFICE AND HAS THE NONOR TO REFER TO YOUR NOTE NO. 137
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CONCERNING THE QUESTION OF THE UNDERSTANDING OF ARTICLE

5 OF THE EXCHANGE OF LETTERS BETWEEN MR. BUSH AND VICE
FOREIGN MINISTER YU CHAN ON THE QUESTION OF THE EXHIBITION
IN THE UNITED STATES OF CHINA'S CULTURAL RELICS. WE WOULD
LIKE TO CLARIFY THAT OUR UNDERSTANDING OF ARTICLE 5 IS
THAT IN CASE OF DAMAGE (SUN HUAI) THE UNITED STATES SIDE
SHOULD MAKE COMPENSATION BASED ON THE DEGREE OF DAMAGE,
AND THIS DEGREE CAN BE DETERMINED THROUGH FRIENDLY
CONSULTATIONS BETWEEN THE TWO SIDES. IF THERE IS LOSS (DIU SHI)
OR (LOSS THROUGH) DAMAGE (SUN SHI) THE UNITED STATES SIDE SHOULD
MAKE COMPENSATION BASED ON THE ESTIMATED PRICE; THE QUESTION OF
CONSULTATIONS BETWEEN THE TWO SIDES CONCERNING THE DEGREE OF LOSS
OR (LOSS THROUGH) DAMAGE IN MAKING COMPENSATION DOES NOT EXIST.
ASSURING YOU OF OUR HIGHEST CONSIDERATION. NOVEMBER 13, 1974,
PEKING. END QUOTE.

4. PROBLEM CENTERS ON TRANSLATION OF WORDS SUN SHI
AND SUN HUAI. BOTH CAN BE TRANSLATED AS DAMAGE, BUT
IT SEEMS CLEAR THAT FORMER IS BEING USED IN THE SENSE
OF TOTAL LOSS WHILE LATTER REFERS TO DAMAGE WHICH MAY BE
PARTIAL. IN FORMER CASE FULL COMPENSATION IS REQUIRED,
BUT IN LATTER CASE CHINESE CLEARLY ARE WILLING TO
NEGOTIATE SETTLEMENT BASED ON DEGREE OF DAMAGE.
HOLDRIDGE

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